IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30/09/2003

Coram

The Hon'ble Mr. Justice P. SATHASIVAM

Writ Petition No. 17166 of 2002
and
writ Petition No. 1785 of 2003
and
W.P.M.P.No.23310/2002 and W.V.M.P.No. 1/2003.

M/s. Orient Organics Ltd.,
Represented by its Managing Director,
K. Srinivasan, Maraimalainagar Industrial
Estate, Kancheepuram District. .. Petitioner in both W.Ps.

-Vs-

1. The Chairman-cum-Managing Director,
State Industries Promotion Corporation of
Tamil Nadu Ltd., Egmore, Chennai-8.

2. M/s. Quantum Drugs and Chemicals Ltd.,
represented by its Proprietor, N.K. Rathi,
Sipcot Industrial Complex, Manamadurai,
Sivagangai District.
(R-2 was impleaded in W.P.No.17166/2002
as per Order of Court dated 3-10-2002). .. Respondents in both W.Ps.

Petitions filed under Article 226 of the Constitution of India, for
issuance of Writs of Mandamus and Declaration, as stated therein.

For petitioner in both W.Ps. : Mr. T.R. Rajagopal,
Senior counsel for Mr. V. Sanjeevi

For 1st respondent : Mr. A.L. Somayaji,
senior counsel for
Mr. P.S. Seetharaman

For 2nd Respondent : Mr.K.R. Tamizhmani for
Mr. R. Venkatakrishnan

:COMMON ORDER

By consent of all the parties writ petitions themselves are taken up
for disposal. M/s. Orient Organics Limited has filed W.P.No. 17166/2002

praying to issue a Writ of Mandamus, directing the State Industries Promotion Corporation (SIPCOT in short), first respondent to receive a sum of Rs.48.60 lakhs from the petitioner as one time settlement amount and hand over the unit of the petitioner situated in Plot No.B3/4 and 3/5A, Maraimalainagar Industrial Estate, Maraimalainagar, Kancheepuram District.

2. In W.P.No. 1785/2003, the very same petitioner seeks to issue a writ of declaration declaring that the sale of land, building and plant and machinery of the petitioner company, situate in Plot No.B3/4 and 3/5A, Maraimalainagar Industrial Estate, Maraimalainagar, Kancheepuram District in favour of the second respondent is illegal, unenforceable in law and null and void.

3. The case of the petitioner is briefly stated hereunder:

According to the petitioner, initially the petitioner company was floated as a private company and later it was converted in the year 1993 as a public limited company under the name and style of M/s Orient Organics Limited. The company is established for the purpose of manufacturing the pharmaceutical drugs, namely, Anti Cancer drugs. The product to be manufactured by the petitioner is 100 per cent export oriented. The petitioner company own an extent of 1.77 acres of land comprised in Plot No. B3/4 and 3/5A in Maraimalai Nagar Town Ship. The petitioner constructed the building in the above said land measuring an extent of approximately 18,000 sq.ft. The petitioner also purchased the machineries and equipments worth about Rs.1.50 crores for starting production. In all, the petitioner has invested nearly Rs.4 crores for starting the production. The petitioner company approached the first respondent to avail term loan facility in the year 1992. The petitioner company was sanctioned a sum of Rs.112 lakhs as term loan-I on 19-2-92, out of which Rs.16 lakhs was disbursed. On 28-12-1994, the petitioner was sanctioned a sum of Rs.35.84 lakhs as term loan-II, out of which Rs.14.99 lakhs was disbursed. The first respondent Corporation had disbursed Rs.30.99 lakhs. The petitioner had executed necessary documents for mortgaging the properties during the month of September, 1995 towards the above term loan. The petitioner paid Rs.11.84 lakhs towards principal amount apart from paying the interest. The petitioner is unable to repay the term loan as scheduled in view of the difficulties being faced in starting commercial production. The respondent Corporation fore-closed the loan and the land, building and machinery was taken possession from the petitioner during April, 1999. Thereafter, the unit was advertised for sale by public auction during August, 2001. Even on 16-3-2001, the petitioner had paid Rs.5.00 lakhs to the respondent. On enquiry, the petitioner came to understand that the highest bid for the unit was Rs.44.50 lakhs. Meanwhile, they approached the respondent Corporation to settle the loan account and to get back the possession of the unit. On 3-1-2002 the petitioner met the officers of the respondent Corporation on 3-1-2002 and expressed their readiness to increase the one time settlement amount of Rs.44.50 lakhs. The petitioner company could not mobilize such a huge amount at that time. The petitioner agreed to increase the one time settlement amount to Rs.48.60 lakhs which was said to have been offered by the auction purchaser subsequent to the

auction. The petitioner submitted a representation on 30-4-2002 to the respondent herein stating that he will pay Rs.48.60 lakhs which was offered by the auction purchaser. But the respondent has refused to meet the petitioner. Hence he sent a representation to the respondent on 19-5-2002 along with a copy of the cheque. The petitioner is ready and willing to settle the amount in one lumpsum. The company has a very good fortune. If the petitioner company is allowed to start the production, there will be a good market and the public will be benefited ultimately. The petitioner is trying to revive the unit by investing funds. Now the petitioner is having a demand draft of Rs.25 .00 lakhs and the balance of Rs.23.60 will be paid by the company. Since in the meanwhile auction had taken place and the 2nd respondent made an offer for Rs.48.60 lakhs which is unconsciable, the petitioner has filed the second writ petition, namely, W.P.No.1785/2003 to declare that the sale of land, building and plant and machinery of the petitioner is illegal and unenforceable.

4. The 1st respondent has filed a separate counter affidavit wherein it is stated that the petitioner company had availed a term loan of Rs.31.15 lakhs. Since the petitioner failed to remit the dues, the mortgaged assets were taken possession under Section 29 of State Financial Corporation Act (SFC Act in short) on 21-4-99 and has spent considerably towards security and insurance, but the petitioner never cared to pay its dues. In response to the 3rd advertisement, the 2nd respondent made an offer and the tender was opened on 28-8-2001. The improved offer was for purchase on out right basis Rs.44 .50 lakhs along with the payment of sundries of Rs.4.10 lakhs. Though the petitioner has approached the first respondent during July, 200 1, September,2001, October,2001 and then on 13-12-2001 seeking time up to the end of January, 2002 to remit the balance O.T.S. amount, the petitioner failed to remit any amount towards the O.T.S.. Hence, the Board of SIPCOT at its meeting held on 21-3-2002 considered and approved the auction sale of the assets to M/s. Quantum Drugs and Chemicals, Madurai on outright sale for Rs.44.50 lakhs along with the payments of sundries of Rs.4.00 lakhs. The sale confirmation was communicated to the auction purchaser on 1-4-2002 and the auction purchaser remitted the entire amount on 27.4.2002. Again the Board in its meeting held on 30-4-2002 considered all the above aspects and suggested that the original promoter be given an opportunity to pay an equal amount of the offer amount of Rs.44.50 lakhs besides sundries amount of Rs.4.10 lakhs on or before 17-5-2002 as committed by them, failing which, the offer of M/s. Quantum Drugs and Chemicals, Madurai shall be accepted for sale of entire assets of the company. The decision of the Board was personally informed to the petitioner and auction purchaser on 30-4-2002. But on 17-5-2002 the petitioner met the respondent and sought time up to 20-5-2002. This was not agreeable and of the fact that the petitioner had not paid the amount on 17-5-2002, as already decided, the assets of the petitioner company had been handed over to the auction purchaser, namely, Messrs Quantum Drugs and Chemicals, Madurai on 18-5-2002. The action taken by the respondent is reasonable and the same is not open to challenge. Regarding the allegation in W.P.No. 1785/2003, it is stated that the petitioner had not kept up his OTS promise, 3 advertisements have been released for sale of assets of the petitioner company. In response to the third advertisement, M/s. Quantum Drugs and Chemicals, the 2nd respondent herein made an offer of Rs.44.50 lakhs

on outright basis and for Rs.48.00 lakhs under deferred payment basis for the entire assets of the petitioner company. Their actions in sale of the assets of the petitioner company is legal and as per the established norms. They had given wide publicity on 3 occasions. The Corporation had given full details in the advertisement as well as gave full opportunity to inspect the assets of the company to all the intending purchasers. There is no practice to fix upset price for any one of the auctioned units by the respondent Corporation. The petitioner has been given ample opportunity to pay the highest offer amount. The respondent has acted fairly and given a long rope for the petitioner to protect its unit. The petitioner is not entitled even for equitable relief. There is no unfairness or mala fides in the sale of the unit to the 2nd respondent.

5. In the light of the above pleadings, I have heard Mr. T.R. Rajagopal, learned senior counsel for the petitioner, Mr. A. L. Somayaji, learned senior counsel for first respondent - SIPCOT and Mr. K.R. Tamizhmani for the 2nd respondent.

6. The points for consideration in these writ petitions are,
(i) Whether the first respondent-SIPCOT was justified in bringing the unit of the petitioner for sale;
(ii) Whether the first respondent has fully complied with the requirements before bringing the unit for sale; and
(iii) Whether the petitioner is entitled to the relief as claimed?

7. There is no dispute that petitioner company had availed a term loan of Rs.31.15 lakhs from the first respondentSIPCOT. Since the petitioner failed to remit the dues as agreed, the mortgaged assets were taken possession under Section 29 of State Financial Corporations Act (SFC Act in short) on 21-4-1999. Even though the petitioner remitted Rs.5 lakhs on 16-3-2001, he failed to pay one time settlement as per their promise which necessitated the first respondent to proceed with the advertisement for auction for sale of the assets. It is further seen that in response to the third advertisement, M/ s. Quantum Drugs and Chemical, Madurai, second respondent herein made an offer and the tender was opened on 28-8-2001. The improved offer was for purchase on out right basis Rs.44.50 lakhs along with the payment of sundries of Rs.4.10 lakhs. The details furnished in the counter affidavit of the first respondent show that even after the offer of the second respondent, the Board of SIPCOT in order to give one more opportunity to the original promoter, namely, the petitioner herein, he was asked to pay an equal offer amount of Rs.44.50 lakhs along with payment of sundries amount of Rs.4.10 lakhs on or before 17 -5-20 02. It is further seen that the said Board's decision was informed personally to the petitioner and the auction purchaser on 30-4-2002. The auction purchaser had agreed to wait till 17-5-2002, even though he has paid the entire amount by 27-4-2002. It is further seen that on 17-5-2002, the petitioner met the first respondent in the presence of other officials and only sought time up to 20-5-2002 for remitting the amount. Though this was not agreeable by the first respondent, the petitioner was granted time till 5.45 P.M. on 17-5-2002, as already decided by the Board. Since the petitioner did not avail and pay the amount, the assets of the petitioner company had been handed over to the auction purchaser namely M/s. Quantum

Drugs and Chemicals, Madurai, 2nd respondent herein on 18-5-2002. Mr. T.R. Rajagopal, learned senior counsel for the petitioner, by drawing my attention to the advertisement made in the Newspaper, would contend that the same is not clear and proper advertisement was not made and it does not mention the upset price of the properties sought to be sold by way of auction. He also contended that the first respondent without even getting fair and reasonable price of the unit of the petitioner company, handed over the unit to the auction purchaser for a paltry sum of Rs.4 8.60 lakhs as against the fact that it is more than Rs.4 Crores investment project. According to him, in the advertisement, no details about the property such as movable, immovable and machineries were given and no upset price was fixed. Therefore, according to him, the entire proceedings are totally vitiated null and void. In support of his claim, he relied on the following decisions:
i) AIR 1989 Allahabad 96.
ii) (1988) 1 Supreme Court cases 166
iii) AIR 1989 Supreme Court 1551
iv) (1992) 1 Supreme Court cases 91
v) AIR 1995 Supreme Court 1632
vi) AIR 1998 Rajasthan 42
vii) (2000) 6 Supreme Court cases 69
viii) 2002 (1) CTC 503

On the other hand, Mr. A.L. Somayaji, learned senior counsel for the first respondent, would contend that the first respondent-SIPCOT has fully followed the procedure, while bringing the unit of the petitioner for public auction. He also contended that necessary details have been given in the advertisement and that the petitioner was given adequate opportunity to clear off the loan amount; and hence interference by this Court in the action of the SIPCOT under Section 29 of the S.F.C. Act is not called for. He also relied on the following decisions:
i) (1995) 2 Supreme Court cases 754
ii) Judgments To-day 1996 (6) S.C. 37
iii) 2002 (1)C.T.C. 503

8. First I shall consider the decisions referred to by the learned senior counsel for the petitioner. In Durgesh Cold Storage and Ice Factory v. U. P.F.Corpn., Kanpur (AIR 1989 Allahabad 96), a Division Bench of the Allahabad High Court, after holding that where for the recovery of the debt State Financial Corporation sold the debtor's property by public auction which was held very hastily, without making any proper publicity of it to public, only one tender received and accepted and actually the property sold at very low price, permission granted to purchaser for payment of price in instalments but for debtor such permission was refused, sale not conducted in fair manner publicly ensuring the best price, set aside the sale. After going through the factual details, I am satisfied that in the case on hand it cannot be construed that the sale was held hastily and without proper publicity.

9. In Haji T.M. Hassan Rowther v. Kerala Financial Corporation [(1998) 1 Supreme Court Cases 166], the following passage in para 14 is very much pressed into the service:

"14. The public property owned by the State or by any instrumentality of the State should be generally sold by public auction or by inviting tenders. This Court has been insisting upon that rule not only to get the highest price for the property but also to ensure fairness in the activities of the State and public authorities. They should undoubtedly act fairly. Their actions should be legitimate. Their dealings should be aboveboard. Their transactions should be without aversion or affection. Nothing should be suggestive of discrimination. Nothing should be done by them which gives an impression of bias, favouratism or nepotism. Ordinarily these factors would be absent if

the matter is brought to public auction or sale by tenders. That is why the court repeatedly stated and reiterated that the State-owned properties are required to be disposed of publicly?."

In the present case, there is no dispute that the property of the petitioner was brought in sale by public auction by inviting tenders.

10. In M/s. Swastic Automobiles v. Bihar State Financial Corporation (AIR 1989 Supreme Court 1551), the sale was set aside on the ground that the property was sold away for a small amount when the security is valued at over Rs.20 lacs. Here, in the present case, pursuant to the advertisement for public auction, the 2nd respondent improved his offer for purchase on outright basis of Rs.44 .50 lakhs along with the payment of sundries of Rs.4.10 lakhs. In the absence of any other offer and in view of the fact that despite an opportunity given to the petitioner, he did not pay the same, ultimately the assets of the petitioner company had been handed over to the auction purchaser,2nd respondent herein only on 18-5-2002; hence the facts in AIR 1989 S.C. 1551 (cited supra) are not applicable to the case on hand.

11. In Lakshmanasami Gounder v. C.I.T [(1992) 1 Supreme Court cases 91], it was held that the object of the sale is to secure the maximum price and to avoid arbitrariness in the procedure adopted before sale and to prevent underhand dealings in effecting sale and purchase of the debtor's property. It was also held that public auction is one of the modes of sale intending to get highest competitive price for the property and public auction also ensures fairness in actions of the public authorities or the sale officers who should act fairly and objectively. In the present case, there is no dispute that the property of the petitioner was sought to be sold by public auction after making proper advertisement.

12. In Chairman and M.D., SIPCOT, Madras v. Contromix Pvt. Ltd., [AIR 1995 Supreme Court 1632], the following observation is pressed into service: (para 12)
" In the matter of sale of public property, the dominant consideration is to secure the best price for the property to be sold. This can be achieved only when there is maximum public participation in the process of sale and every body has an opportunity of making an offer. Public auction after adequate publicity ensures participation of every person who is interested in purchasing the property and generally secures the best price?"

In the case on hand, admittedly advertisements were made on 3 occasions, both

in the vernacular and in English Newspapers and pursuant to the third advertisement, the 2nd respondent made his offer to purchase the unit; hence it cannot be contended that no adequate publicity was given before taking action.

13. In M/s. Chetak Electric and Iron Industries v. Rajasthan Finance Corpn. (AIR 1998 Rajasthan 42), a learned Single Judge of the Rajasthan High Court has found that publicity in the case before him has not been made according to the Rules. It is requirement of the Rules that publication is to be made in a prominent local newspaper and in one State level daily Hindi Newspaper. Apart from that, list of unit (applicable to that case) available for sale are to be displayed on the notice board. In the present case, I have already referred to the advertisement made on three occasions both in the vernacular and English Daily. Hence, it cannot be claimed that the action taken by the first respondent is contrary to the Rules.

14. In Divya Manufacturing Company (P) Ltd., v. Union Bank of India [(2000) 6 Supreme Court cases 69], Their Lordships have held that "..it is the duty of the Court to see that the price fetched at the auction is an adequate price even though there is no suggestion of irregularity or fraud.." It is true that in the advertisement, the first respondent-SIPCOT has not mentioned upset price of the properties sought to be sold. In the counter affidavit, the first respondent has explained that they had given wide publicity on three occasions, namely on 12-6-2000, 21-1-2001 and 21-5-2001 and furnished the full details in the advertisement and the intending bidders were given full opportunity to inspect the assets of the company. They further explained that there is no practice to fix upset price for any one of the auctioned units by the first respondent Corporation. The details furnished in the advertisement highlighted the location of the company, its product, available assets details, etc. In such circumstances, it cannot be claimed that the advertisement is bereft of details.

15. Mr. A.L. Somayaji, learned senior counsel for the first respondent-SIPCOT heavily relied on a decision of the Supreme Court reported in U.P. Financial Corpn. V. Naini Oxygen and Acetyline Gas Ltd., reported in [(1995) 2 Supreme Court Cases 754] and contended that in the light of the fact that the first respondent exercised power under Section 29 of the SFC Act and followed all the procedures before bringing the property of the petitioner by public auction, interference by this Court exercising jurisdiction under Article 226 of the Constitution of India is very limited. The following conclusion arrived at by Their Lordships in this decision is relevant: (para 21)

"21. However, we cannot lose sight of the fact that the Corporation is an independent autonomous statutory body having its own constitution and rules to abide by, and functions and obligations to discharge. As such, in the discharge of its functions, it is free to act according to its own light. The views it forms and the decisions it takes are on the basis of the information in its possession and the advice it receives and according to its own perspective and calculations. Unless its action is mala fide, even a wrong decision taken by it is not open to challenge. It is not for the courts or a third party to substitute its decision, however more prudent, commercial or

businesslike it may be, for the decision of the Corporation. Hence, whatever the wisdom (or the lack of it) of the conduct of the Corporation, the same cannot be assailed for making the Corporation liable."

In that case, the company made persistent defaults in repayment of the loan instalments with the result, the recovery certificate was issued against it under Section 3 of the U.P. Public Moneys (Recovery of Dues) Act. By 30-5-1986, the dues of the company mounted to Rs.90 ,31,102.13 with the result that on 13-6-86 the Corporation had to take over its industrial establishment under section 29 of the Act. Between 1981, when the industrial establishment was closed down, and 1988 when the IRBI report was submitted, the machinery of the establishment was lying idle and became almost rusty with the result that by 1988, the value of the machinery had gone down considerably, while its liabilities had gone up still further. In the circumstances, it was observed that if the Corporation did not accept the report of the IRBI taking the view that the revival of the Unit even after giving all concessions and reliefs as per the package deal was problematic and the Corporation will stand to lose whatever little it could retrieve towards its dues, the Corporation could hardly be blamed for the same. While saying so, Their Lordships have concluded thus: (para 23)

"23. We are, therefore, of the view that this is not a matter where the High Court should have stepped in and substituted its judgment for the judgment of the Corporation which should be deemed to know its interests better whatever the sympathies the Court had for the prosperity of the Company. In matters commercial, the courts should not risk their judgments for the judgments of the bodies to whom that task is assigned."

16. The other decision relied on by the learned senior counsel for 1st respondent is in the case of Karnataka State Financial Corporation v. Micro Cast Rubber, reported in Judgements To-day 199 6 (6) S.C. 37, wherein Their Lordships have held that: (para 7)

"7. In the matter of a sale by the State Financial Corporation in exercise of the power conferred on it under Section 29 of the Act the scope of judicial review is confined to two situations, namely, (1) there is a statutory violation on the part of the State Financial Corporation, or (2) where the State Financial Corporation acts unfairly, i.e., unreasonably. While exercising its jurisdiction under Article 226 of the Constitution, the High Court does not sit as an appellate authority over the acts and deeds of the State Financial Corporation. It has not been pointed out that there is any statutory violation on the part of the appellant in accepting the offers of M/ s Prime Inputs (India) Ltd., and M/s. Shakti Rubbers and in rejecting the offer of respondent No.2. Nor can it be said that the action of the appellant in not accepting the offer of respondent No.2 and accepting the offers of M/s Prime Inputs (India) Ltd., and M/s. Shakti Rubbers was unfair or unreasonable. The High Court was, therefore, not justified in interfering with the action of the appellant in accepting the offers of M/s Prime Inputs (India) Ltd., and M/s. Shakthi Rubbers for the sale of the unit of respondent No.1. The writ petition filed by respondent no.1 and 2 is, therefore, liable to be dismissed."

As pointed out above, there is no statutory violation on the part of the SIPCOT. Likewise, it cannot be claimed that the action taken by SIPCOT is unfair or unreasonable for the reasons explained in the earlier paragraphs.

17. The last decision relied on by the petitioner as well as first respondent is in the case of Haryana Financial Corporation v. M/s. Jagdamba Oil Mills, reported in 2002 (1) CTC 503. In this decision, the Larger Bench of the Hon'ble Supreme Court considered the action taken by the State Financial Corporation under Section 29 of the State Financial Corporations Act, 1951. After extensively considering the provisions and object of the Act, Their Lordships have not approved the guidelines issued in Mahesh Chandra's case [1993 (2) SCC 935] and ultimately over-ruled the same. After overruling the guidelines framed in Mahesh Chandra's case, Their Lordships have held as follows:- (para 9, 14, 16, 18 and 19)

"9. In matters like the present one, fairness cannot be a one way street. Corporations borrow money from the Government or other financial corporations and are required to pay interest thereon. Where the borrower has no genuine intention to repay and adopts pretexts and ploys to avoid payment, he cannot make the grievance that Corporation was not acting fairly, even if requisite procedures have been followed.
14?..Unless its action in mala fide, even a wrong decision by it is not open to challenge. It is not for the courts or a third party to substitute its decision, however, more prudent, commercial or businesslike it may, for the decision of the Corporation. As was observed by this Court in U.P. Financial Corporation and Ors. V. Naini Oxygen & Acetylene Gas Ltd., and Anr., 1995 (2) SCC 754, commercial matters the court should not risk their judgments for the judgments of the bodies to whom that task is assigned. As was rightly observed by this Court in Karnataka State Financial Corporation v. Micro Cast Rubber & Allied Products (P) Ltd., & ors. JT 1996 (6) SC 37, in the matter of action by the Corporation in exercise of the powers conferred on its under Section 29 of the Act, the scope of Judicial review is confined to two circumstances i.e. (a) where there is statutory violation on the part of the State Financial Corporation, or, (b) where the State Financial Corporation acts unfairly i.e. unreasonably. While exercising its jurisdiction under Article 226 of the Constitution of India, 1950, the high Court does not sit as an appellate authority over the acts and deeds of the Corporation. Similarly, the courts other than the High Courts are not to interfere with action under Section 29 of the Act unless the aforesaid two situations exist.
16. The view in Mahesh Chandra's case, 1993 (2) SCC 279 appears to have been too widely expressed without taking note of ground realities and the intended object of the statute. If the guidelines as indicated are to be strictly followed, it would be giving premium to a dishonest borrower. It would not further interest of any Corporation and consequently of the industrial undertakings intending to avail financial assistance. It would only provide on unwarranted opportunity to the defaulter (in most cases chronic and deliberate) to stall recovery proceedings. It is not to be understood that in every case the Corporations shall take recourse to action under Section 29 . Procedure to be followed, needless to say, has to be observed. If any reason is indicated or cause shown for the default, same has to be considered in its proper perspective and a conscious decision has to be taken as to whether

action under Section 29 of the Act is called for. Thereafter, the modalities for disposal of seized unit have to be worked out. The view expressed in Gem Cap's case, 1993 (2) SCC 299 appears to be more in line with the legislative intent. Indulgence shown to chronic defaulter would amount to flogging a dead horse without any conceivable result being expected?.
18?..The procedure indicated in Mahesh Chandra's case, 1993 (2) SCC 279 will only lead to further delay in realization of the dues by the Corporation will try and realize the maximum sale price by selling the assets by following a procedure which is transparent and acceptable, after due publicity, wherever possible.
19. The subsequent decisions of this Court in Gem Cap's 1993 (2) SCC 299, Naine Oxygen, 1995 (2) SCC 754 and Micro Cast Rubber, JT 1996 (6) SC 37 run counter to the view expressed in Mahesh Chandra's case, 1993 (2) SCC 279. In our opinion, the issuance of the said guidelines in Mahesh Chandra's case are contrary to the letter and the intent of Section 29. In our view, the said observations in Mahesh Chandra's case, 1993 (2) SCC 279 do not lay down the correct law and the said decision is overruled."

By applying the principles as laid down above, in the light of the factual details, namely, default committed by the petitioner, awarding of sufficient opportunity to repay, action taken under Section 29 of the Act, advertisements on three occasions both in the vernacular and English Newspapers, and details of the properties namely, location of the company, product available, assets etc., in the advertisement, I am of the view that interference by this Court is not warranted. No doubt, learned senior counsel for the petitioner by relying on the very same decision, would contend that it is essential that every endeavour should be taken to give wide publicity so as to get maximum price. I have already referred to the steps taken by the first respondent Corporation. I am satisfied that they were not lacking in giving wide publicity, instead they tried their best to get the maximum price. I have already referred to the fact that after opening of the tender, the 2nd respondent has made an improved offer for purchase on outright basis of Rs.44.50 lakhs along with the payment of sundries of Rs.4.10 lakhs. As a matter of fact, even at that stage, in order to give one more opportunity to the petitioner, who is the owner of the properties in question, he was intimated to pay the said amount as offered by the 2nd respondent on or before 17-5-2002. There is no dispute that in spite of giving such time, the petitioner did not pay the same and only prayed further time for remitting the amount. As the same was not accepted by the first respondent, they handed over the assets of the petitioner company to the auction purchaser, namely, the second respondent. In the light of the factual details, as discussed above and in view of the law laid down by the latest Larger Bench decision of the Supreme Court in Haryana Financial Corporation v. M/ s Jagdamba Oil Mills (2002 (1) CTC 503), I do not find any valid ground to accept the case of the petitioner and issue direction as claimed. Hence, both the writ petitions fail and are accordingly dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

R.B.

Index:- Yes.

Internet:- Yes.

To:-

The Chairman-cum-Managing Director,
State Industries Promotion Corporation of
Tamil Nadu Ltd., Egmore, Chennai-8.